

Remarks

Claims 1-4, 7-18, 21, 22, 53, and 58-69 are currently pending. Claims 62-69 have been added, and claims 1 and 2 have been amended. Reconsideration and allowance is respectfully requested of all the pending claims in light of the following remarks.

Election/ Restrictions

The Office Action has included claims 14 and 53 as withdrawn for lack of support in the elected embodiment. The Applicant traverses this withdrawal and draws the Examiner's attention to Figure 3 which depicts, for example, core component 26 with wear resistant surfaces 40, 42 which cover less than the entire surface of the core component 26. For example, the side surfaces of core component 26 may omit a wear resistant surface as shown in FIG. 3. For at least this reason, Applicant requests reconsideration and allowance of claims 14 and 53.

Rejections Under 35 U.S.C. §112

Claim 2 stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Office Action does not specify how claim 2 contradicts the assembly as set forth in claim 1, and the Applicant maintains that it does not. However, to promote a better understanding of the invention, claims 1 and 2 have been amended to provide clarification.

Rejections Under 35 U.S.C. §102

Claims 1-4, 7-13, 15-18, 21, 22, and 58-61 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application No. 2004/0143332 to Kruger, et al. ("Kruger").

The PTO provides in MPEP § 2131 that

"[t]o anticipate a claim, the reference must teach every element of the claim...."

Therefore, with respect to claims 1-4, 7-13, 15-18, 21, 22, and 58-61, to sustain this rejection Kruger must contain all of the elements of the claims. However, Kruger does not show every element of the claims. For example, Kruger does not teach "a first *flexible* core

component” (emphasis added) as recited in independent claims 1, 53, and 58. Rather, the pertinent portions of Kruger appear to suggest only non-flexible materials for member 104 [as shown in FIGS. 1, 4, 6, 9, 11, 14, 16, 18, 20, and 22]. Specifically, Kruger states, “[m]ember 104 may be formed from metal (e.g., chrome) or ceramic” (para. 0117). In fact, Kruger teaches away from using a flexible core component stating, “many polymers tend to ‘flow’ . . . possibly deforming and leading to failure of an implant” (para. 0157). Thus, Kruger appears to regard deformation and flexibility as detrimental features to the function of the implant.

Therefore, the rejection of independent claims 1, 53, and 58 is not supported by the Kruger reference and should be withdrawn. Claims 2-4, 7-18, 21, 22, and 59-61 depend from and further limit the independent claims and are therefore also in condition for allowance.

New Claims

Claims 62-69 have been added to more precisely claim the subject matter of the original disclosure. Independent claim 62 is not anticipated by the Kruger reference because Kruger does not teach, for example, “an elastically deformable core component” or “each engagement surface prevents linear displacement of the respective contact surface relative to the engagement surface while permitting rotational motion between the respective engagement and contact surfaces.” For at least these reasons, claim 62 is in condition for allowance. Claims 63-69 depend from and further limit claim 62 and therefore are also in condition for allowance.

Conclusion

It is clear from all of the foregoing that independent claims 1, 53, 58, and 62 are in condition for allowance. Dependent claims 2-4, 7-18, 21, 22, 59-61, and 63-69 depend from and further limit the independent claims and therefore are allowable as well. The Examiner is invited to contact the undersigned at the numbers provided below if further consideration is required.

Respectfully submitted,



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